

1 Ren  e Welze Livingston (SBN 124280)
2 Jason G. Gong (SBN 181298)
3 LIVINGSTON LAW FIRM
4 A Professional Corporation
1600 South Main Street, Suite 280
Walnut Creek, CA 94596
Tel: (925) 952-9880
Fax: (925) 952-9881

6 Attorneys for Defendants
FIVE HAPPINESS RESTAURANT, INC.,
WILLIAM P. YANG and MEI-MEI KOO YANG

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

21 Defendants Five Happiness Restaurant, Inc., William P. Yang, and Mei-Mei Koo Yang
22 (“Defendants”), for themselves and no other persons or entities hereby answer plaintiffs’
23 Complaint in this action by admitting, denying and alleging as follows:

ANSWER RE ALLEGATIONS TO INTRODUCTION

25 1. Answering paragraph 1 of the complaint, defendants lack sufficient information
26 or knowledge about the matters alleged therein, and on that basis, defendants deny the
27 allegations set forth in paragraph 1.

28 || 2. Answering paragraph 2 of the complaint, defendants lack sufficient information

1 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 2 allegations set forth in paragraph 2.

3 **ANSWER RE ALLEGATIONS TO JURISDICTION AND VENUE**

4 3. Answering paragraph 3 of the complaint, defendants admit that this Court has
 5 jurisdiction under 28 U.S.C. Section 1331 and that supplemental (referred to as "pendant" in the
 6 complaint) jurisdiction exists under 28 U.S.C. Section 1337 over plaintiffs' state law claims.
 7 Defendants reserve their right to move this Court at an appropriate time to decline exercising its
 8 supplemental jurisdiction. Defendants deny the remaining allegation in paragraph 3.

9 4. Answering paragraph 4 of the complaint, defendants admit that venue is proper in
 10 this Court.

11 **ANSWER RE ALLEGATIONS TO PARTIES**

12 5. Answering paragraph 5 of the complaint, defendants lack sufficient information
 13 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 14 allegations set forth in paragraph 5. However, to the extent that plaintiffs have made legal
 15 conclusions in this paragraph, defendants deny these allegations.

16 6. Answering paragraph 6 of the complaint, defendants lack sufficient information
 17 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 18 allegations set forth in paragraph 6. To the extent that plaintiffs have stated legal conclusions in
 19 this paragraph, defendants deny these allegations.

20 7. Answering paragraph 7 of the complaint, defendants lack sufficient information
 21 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 22 allegations set forth in paragraph 7. To the extent that plaintiffs have stated legal conclusions in
 23 this paragraph, defendants deny these allegations.

24 8. Answering paragraph 8 of the complaint, defendants admit that they own and
 25 operate the Five Happiness restaurant located at 4142 Geary Boulevard, San Francisco,
 26 California. Except as expressly stated, defendants lack sufficient information or knowledge
 27 about the remaining matters alleged in this paragraph, and on that basis, defendants deny the
 28 remaining allegations set forth in paragraph 8.

1 9. Answering paragraph 9 of the complaint, defendants admit that they own and
 2 operate the Five Happiness restaurant located at 4142 Geary Boulevard, San Francisco,
 3 California. Except as expressly stated, defendants lack sufficient information or knowledge
 4 about the remaining matters alleged in this paragraph, and on that basis, defendants deny the
 5 remaining allegations set forth in paragraph 9.

6 10. Answering paragraph 10 of the complaint, defendants lack sufficient information
 7 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 8 allegations set forth in paragraph 10. To the extent that plaintiffs have stated legal conclusions in
 9 this paragraph, defendants deny these allegations.

10 **ANSWER RE ALLEGATIONS TO PRELIMINARY FACTUAL ALLEGATIONS**

11 11. Answering paragraph 11 of the complaint, defendants admit that the Five
 12 Happiness Restaurant is located at 4142 Geary Boulevard, San Francisco, California. Except as
 13 expressly stated, defendants deny each and every remaining allegation in paragraph 11. To the
 14 extent that plaintiffs have stated legal conclusions in this paragraph, defendants deny these
 15 allegations.

16 12. Answering paragraph 12 of the complaint, defendants lack sufficient information
 17 or knowledge about the matters alleged therein, and on that basis, defendants deny each and
 18 every allegation set forth in paragraph 12.

19 13. Answering paragraph 13 of the complaint, defendants deny each and every
 20 allegation set forth in paragraph 13.

21 14. Answering paragraph 14 of the complaint, defendants lack sufficient information
 22 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 23 allegations set forth in paragraph 14.

24 15. Answering paragraph 15 of the complaint, defendants lack sufficient information
 25 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 26 allegations set forth in paragraph 15.

27 16. Answering paragraph 16 of the complaint, defendants lack sufficient information
 28 or knowledge about the matters alleged therein, and on that basis, defendants deny the

1 allegations set forth in paragraph 16.

2 17. Answering paragraph 17 of the complaint, defendants lack sufficient information
3 or knowledge about the matters alleged therein, and on that basis, defendants deny the
4 allegations set forth in paragraph 17.

5 18. Answering paragraph 18 of the complaint, defendants lack sufficient information
6 or knowledge about the matters alleged therein, and on that basis, defendants deny the
7 allegations set forth in paragraph 18.

8 19. Answering paragraph 19 of the complaint, defendants lack sufficient information
9 or knowledge about the matters alleged therein, and on that basis, defendants deny the
10 allegations set forth in paragraph 19.

11 20. Answering paragraph 20 of the complaint, defendants lack sufficient information
12 or knowledge about the matters alleged therein, and on that basis, defendants deny the
13 allegations set forth in paragraph 20.

14 21. Answering paragraph 21 of the complaint, defendants lack sufficient information
15 or knowledge about the matters alleged therein, and on that basis, defendants deny the
16 allegations set forth in paragraph 21.

17 22. Answering paragraph 22 of the complaint, defendants lack sufficient information
18 or knowledge about the matters alleged therein, and on that basis, defendants deny the
19 allegations set forth in paragraph 22.

20 23. Answering paragraph 23 of the complaint, defendants lack sufficient information
21 or knowledge about the matters alleged therein, and on that basis, defendants deny the
22 allegations set forth in paragraph 23.

23 24. Answering paragraph 24 of the complaint, defendants lack sufficient information
24 or knowledge about the matters alleged therein, and on that basis, defendants deny the
25 allegations set forth in paragraph 24. To the extent that plaintiffs have stated legal conclusions in
26 this paragraph, defendants deny these allegations.

27 25. Answering paragraph 25 of the complaint, defendants lack sufficient information
28 or knowledge about the matters alleged therein, and on that basis, defendants deny the

1 allegations set forth in paragraph 25. To the extent that plaintiffs have stated legal conclusions in
2 this paragraph, defendants deny these allegations.

3 26. Answering paragraph 26 of the complaint, defendants lack sufficient information
4 or knowledge about the matters alleged therein, and on that basis, defendants deny the
5 allegations set forth in paragraph 26. To the extent that plaintiffs have stated legal conclusions in
6 this paragraph, defendants deny these allegations.

7 27. Answering paragraph 27 of the complaint, defendants lack sufficient information
8 or knowledge about the matters alleged therein, and on that basis, defendants deny the
9 allegations set forth in paragraph 27. To the extent that plaintiffs have stated legal conclusions in
10 this paragraph, defendants deny these allegations.

11 28. Answering paragraph 28 of the complaint, defendants deny each and every
12 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this
13 paragraph, defendants deny these allegations.

14 29. Answering paragraph 29 of the complaint, defendants deny each and every
15 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this
16 paragraph, defendants deny these allegations.

17 30. Answering paragraph 30 of the complaint, defendants lack sufficient information
18 or knowledge about the matters alleged therein, and on that basis, defendants deny the
19 allegations set forth in paragraph 30. To the extent that plaintiffs have stated legal conclusions in
20 this paragraph, defendants deny these allegations.

21 31. Answering paragraph 31 of the complaint, defendants lack sufficient information
22 or knowledge about the matters alleged therein, and on that basis, defendants deny the
23 allegations set forth in paragraph 31. To the extent that plaintiffs have stated legal conclusions in
24 this paragraph, defendants deny these allegations.

25 32. Answering paragraph 32 of the complaint, defendants lack sufficient information
26 or knowledge about the matters alleged therein, and on that basis, defendants deny the
27 allegations set forth in paragraph 32. To the extent that plaintiffs have stated legal conclusions in
28 this paragraph, defendants deny these allegations.

1 33. Answering paragraph 33 of the complaint, defendants lack sufficient information
2 or knowledge about the matters alleged therein, and on that basis, defendants deny the
3 allegations set forth in paragraph 33. To the extent that plaintiffs have stated legal conclusions in
4 this paragraph, defendants deny these allegations.

5 34. Answering paragraph 34 of the complaint, defendants deny each and every
6 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this
7 paragraph, defendants deny these allegations.

8 35. Answering paragraph 35 of the complaint, defendants admit that plaintiffs seek
9 injunctive relief. Defendants lack sufficient information or knowledge about the remaining
10 allegations in paragraph 35, and on that basis, deny these allegations. To the extent that
11 plaintiffs have stated legal conclusions in this paragraph, defendants deny these allegations.

12 36. Answering paragraph 36 of the complaint, defendants admit that plaintiffs seek
13 statutory damages. Defendants lack sufficient information or knowledge about the remaining
14 allegations in paragraph 36, and on that basis, deny these allegations. To the extent that
15 plaintiffs have stated legal conclusions in this paragraph, defendants deny these allegations.

16 37. Answering paragraph 37 of the complaint, defendants deny each and every
17 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this
18 paragraph, defendants deny these allegations.

19 38. Answering paragraph 38 of the complaint, defendants deny each and every
20 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this
21 paragraph, defendants deny these allegations.

22 39. Answering paragraph 39 of the complaint, defendants deny each and every
23 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this
24 paragraph, defendants deny these allegations.

25 40. Answering paragraph 40 of the complaint, defendants deny each and every
26 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this
27 paragraph, defendants deny these allegations.

28 41. Answering paragraph 41 of the complaint, defendants deny each and every

1 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this
 2 paragraph, defendants deny these allegations.

3 42. Answering paragraph 42 of the complaint, defendants lack sufficient information
 4 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 5 allegations set forth in paragraph 42. To the extent that plaintiffs have stated legal conclusions in
 6 this paragraph, defendants deny these allegations.

7 **ANSWER RE ALLEGATIONS TO FIRST CAUSE OF ACTION**

8 43. Answering paragraph 43 of the compliant, defendants hereby incorporates their
 9 responses to paragraphs 1 through 42 as though fully set forth herein.

10 44. Answering paragraph 44 of the complaint, defendants lack sufficient information
 11 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 12 allegations set forth in paragraph 44. To the extent that plaintiffs have stated legal conclusions in
 13 this paragraph, defendants deny these allegations.

14 45. Answering paragraph 45 of the complaint, defendants lack sufficient information
 15 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 16 allegations set forth in paragraph 45. To the extent that plaintiffs have stated legal conclusions in
 17 this paragraph, defendants deny these allegations.

18 46. Answering paragraph 46 of the complaint, defendants lack sufficient information
 19 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 20 allegations set forth in paragraph 46. To the extent that plaintiffs have stated legal conclusions in
 21 this paragraph, defendants deny these allegations.

22 47. Answering paragraph 47 of the complaint, defendants lack sufficient information
 23 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 24 allegations set forth in paragraph 47. To the extent that plaintiffs have stated legal conclusions in
 25 this paragraph, defendants deny these allegations.

26 48. Answering paragraph 48 of the complaint, defendants lack sufficient information
 27 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 28 allegations set forth in paragraph 48. To the extent that plaintiffs have stated legal conclusions in

1 this paragraph, defendants deny these allegations.

2 49. Answering paragraph 49 of the complaint, defendants lack sufficient information
 3 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 4 allegations set forth in paragraph 49. To the extent that plaintiffs have stated legal conclusions in
 5 this paragraph, defendants deny these allegations.

6 50. Answering paragraph 50 of the complaint, defendants lack sufficient information
 7 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 8 allegations set forth in paragraph 50. To the extent that plaintiffs have stated legal conclusions in
 9 this paragraph, defendants deny these allegations.

10 51. Answering paragraph 51 of the complaint, defendants deny each and every
 11 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this
 12 paragraph, defendants deny these allegations.

13 52. Answering paragraph 52 of the complaint, defendants lack sufficient information
 14 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 15 allegations set forth in paragraph 52. To the extent that plaintiffs have stated legal conclusions in
 16 this paragraph, defendants deny these allegations.

17 53. Answering paragraph 53 of the complaint, defendants lack sufficient information
 18 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 19 allegations set forth in paragraph 53. To the extent that plaintiffs have stated legal conclusions in
 20 this paragraph, defendants deny these allegations.

21 54. Answering paragraph 54 of the complaint, defendants lack sufficient information
 22 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 23 allegations set forth in paragraph 54. To the extent that plaintiffs have stated legal conclusions in
 24 this paragraph, defendants deny these allegations.

25 **ANSWER RE ALLEGATIONS TO SECOND CAUSE OF ACTION**

26 55. Answering paragraph 55 of the compliant, defendants hereby incorporates their
 27 responses to paragraphs 1 through 54 as though fully set forth herein.

28 56. Answering paragraph 56 of the complaint, defendants lack sufficient information

1 or knowledge about the matters alleged therein, and on that basis, defendants deny the
2 allegations set forth in paragraph 56. To the extent that plaintiffs have stated legal conclusions in
3 this paragraph, defendants deny these allegations.

4 57. Answering paragraph 57 of the complaint, defendants lack sufficient information
5 or knowledge about the matters alleged therein, and on that basis, defendants deny the
6 allegations set forth in paragraph 57. To the extent that plaintiffs have stated legal conclusions in
7 this paragraph, defendants deny these allegations.

8 58. Answering paragraph 58 of the complaint, defendants lack sufficient information
9 or knowledge about the matters alleged therein, and on that basis, defendants deny the
10 allegations set forth in paragraph 58. To the extent that plaintiffs have stated legal conclusions in
11 this paragraph, defendants deny these allegations.

12 59. Answering paragraph 59 of the complaint, defendants lack sufficient information
13 or knowledge about the matters alleged therein, and on that basis, defendants deny the
14 allegations set forth in paragraph 59. To the extent that plaintiffs have stated legal conclusions in
15 this paragraph, defendants deny these allegations.

16 60. Answering paragraph 60 of the complaint, defendants lack sufficient information
17 or knowledge about the matters alleged therein, and on that basis, defendants deny the
18 allegations set forth in paragraph 60. To the extent that plaintiffs have stated legal conclusions in
19 this paragraph, defendants deny these allegations.

20 61. Answering paragraph 61 of the complaint, defendants lack sufficient information
21 or knowledge about the matters alleged therein, and on that basis, defendants deny the
22 allegations set forth in paragraph 61. To the extent that plaintiffs have stated legal conclusions in
23 this paragraph, defendants deny these allegations.

24 62. Answering paragraph 62 of the complaint, defendants lack sufficient information
25 or knowledge about the matters alleged therein, and on that basis, defendants deny the
26 allegations set forth in paragraph 62. To the extent that plaintiffs have stated legal conclusions in
27 this paragraph, defendants deny these allegations.

28 63. Answering paragraph 63 of the complaint, defendants lack sufficient information

1 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 2 allegations set forth in paragraph 63. To the extent that plaintiffs have stated legal conclusions in
 3 this paragraph, defendants deny these allegations.

4 64. Answering paragraph 64 of the complaint, defendants lack sufficient information
 5 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 6 allegations set forth in paragraph 64. To the extent that plaintiffs have stated legal conclusions in
 7 this paragraph, defendants deny these allegations.

8 **ANSWER RE ALLEGATIONS TO THIRD CAUSE OF ACTION**

9 65. Answering paragraph 65 of the compliant, defendants hereby incorporates their
 10 responses to paragraphs 1 through 64 as though fully set forth herein.

11 66. Answering paragraph 66 of the complaint, defendants lack sufficient information
 12 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 13 allegations set forth in paragraph 66. To the extent that plaintiffs have stated legal conclusions in
 14 this paragraph, defendants deny these allegations.

15 67. Answering paragraph 67 of the complaint, defendants lack sufficient information
 16 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 17 allegations set forth in paragraph 67. To the extent that plaintiffs have stated legal conclusions in
 18 this paragraph, defendants deny these allegations.

19 68. Answering paragraph 68 of the complaint, defendants lack sufficient information
 20 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 21 allegations set forth in paragraph 68. To the extent that plaintiffs have stated legal conclusions in
 22 this paragraph, defendants deny these allegations.

23 69. Answering paragraph 69 of the complaint, defendants lack sufficient information
 24 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 25 allegations set forth in paragraph 69. To the extent that plaintiffs have stated legal conclusions in
 26 this paragraph, defendants deny these allegations.

27 70. Answering paragraph 70 of the complaint, defendants lack sufficient information
 28 or knowledge about the matters alleged therein, and on that basis, defendants deny the

1 allegations set forth in paragraph 70. To the extent that plaintiffs have stated legal conclusions in
 2 this paragraph, defendants deny these allegations.

3 71. Answering paragraph 71 of the complaint, defendants lack sufficient information
 4 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 5 allegations set forth in paragraph 71. To the extent that plaintiffs have stated legal conclusions in
 6 this paragraph, defendants deny these allegations.

7 72. Answering paragraph 72 of the complaint, defendants admit that plaintiffs seek
 8 injunctive relief. Defendants lack sufficient information or knowledge about the remaining
 9 allegations in paragraph 72, and on that basis, deny these allegations. To the extent that
 10 plaintiffs have stated legal conclusions in this paragraph, defendants deny these allegations.

11 **ANSWER RE ALLEGATIONS TO FOURTH CAUSE OF ACTION**

12 73. Answering paragraph 73 of the compliant, defendants hereby incorporates their
 13 responses to paragraphs 1 through 72 as though fully set forth herein.

14 74. Answering paragraph 74 of the complaint, defendants lack sufficient information
 15 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 16 allegations set forth in paragraph 74. To the extent that plaintiffs have stated legal conclusions in
 17 this paragraph, defendants deny these allegations.

18 75. Answering paragraph 75 of the complaint, defendants lack sufficient information
 19 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 20 allegations set forth in paragraph 75. To the extent that plaintiffs have stated legal conclusions in
 21 this paragraph, defendants deny these allegations.

22 76. Answering paragraph 76 of the complaint, defendants lack sufficient information
 23 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 24 allegations set forth in paragraph 76. To the extent that plaintiffs have stated legal conclusions in
 25 this paragraph, defendants deny these allegations.

26 77. Answering paragraph 77 of the complaint, defendants lack sufficient information
 27 or knowledge about the matters alleged therein, and on that basis, defendants deny the
 28 allegations set forth in paragraph 77. To the extent that plaintiffs have stated legal conclusions in

this paragraph, defendants deny these allegations.

2 78. Answering paragraph 78 of the complaint, defendants lack sufficient information
3 or knowledge about the matters alleged therein, and on that basis, defendants deny the
4 allegations set forth in paragraph 78. To the extent that plaintiffs have stated legal conclusions in
5 this paragraph, defendants deny these allegations.

ANSWER RE ALLEGATIONS TO PRAYER

7 79. Defendants deny each and every allegation made by plaintiffs in their prayer for
8 relief alleged in the complaint (hereinafter “prayer for relief”):

I. ON THE FIRST CAUSE OF ACTION:

10 1. Answering paragraph 1 of the prayer for relief on the first cause of action,
11 defendants deny each and every allegation set forth therein.

12 2. Answering paragraph 2 of the prayer for relief on the first cause of action,
13 defendants deny each and every allegation set forth therein.

14 3. Answering paragraph 3 of the prayer for relief on the first cause of action,
15 defendants deny each and every allegation set forth therein.

II. ON THE SECOND CAUSE OF ACTION:

17 1. Answering paragraph 1 of the prayer for relief on the second cause of action,
18 defendants deny each and every allegation set forth therein.

19 2. Answering paragraph 2 of the prayer for relief on the second cause of action,
20 defendants deny each and every allegation set forth therein.

21 3. Answering paragraph 3 of the prayer for relief on the second cause of action,
22 defendants deny each and every allegation set forth therein.

23 4. Answering paragraph 4 of the prayer for relief on the second cause of action,
24 defendants deny each and every allegation set forth therein.

25 5. Answering paragraph 5 of the prayer for relief on the second cause of action,
26 defendants deny each and every allegation set forth therein.

27 6. Answering paragraph 6 of the prayer for relief on the second cause of action,
28 defendants deny each and every allegation set forth therein.

1 7. Answering paragraph 7 of the prayer for relief on the second cause of action,
 2 defendants deny each and every allegation set forth therein.

3 **III. ON THE SECOND CAUSE OF ACTION:**

4 1. Answering paragraph 1 of the prayer for relief for general and compensatory
 5 damages on the second cause of action, defendants deny each and every allegation set forth
 6 therein.

7 **IV. ON THE THIRD CAUSE OF ACTION:**

8 1. Answering paragraph 1 of the prayer for relief on the third cause of action,
 9 defendants deny each and every allegation set forth therein.

10 2. Answering paragraph 2 of the prayer for relief on the third cause of action,
 11 defendants deny each and every allegation set forth therein.

12 3. Answering paragraph 3 of the prayer for relief on the third cause of action,
 13 defendants deny each and every allegation set forth therein.

14 4. Answering paragraph 4 of the prayer for relief on the third cause of action,
 15 defendants deny each and every allegation set forth therein.

16 5. Answering paragraph 5 of the prayer for relief on the third cause of action,
 17 defendants deny each and every allegation set forth therein.

18 **V. ON THE FOURTH CAUSE OF ACTION:**

19 1. Answering paragraph 1 of the prayer for relief on the fourth cause of action,
 20 defendants deny each and every allegation set forth therein.

21 2. Answering paragraph 2 of the prayer for relief on the fourth cause of action,
 22 defendants deny each and every allegation set forth therein.

23 3. Answering paragraph 3 of the prayer for relief on the fourth cause of action,
 24 defendants deny each and every allegation set forth therein.

25 4. Answering paragraph 4 of the prayer for relief on the fourth cause of action,
 26 defendants deny each and every allegation set forth therein.

27 5. Answering paragraph 5 of the prayer for relief on the fourth cause of action,
 28 defendants deny each and every allegation set forth therein.

1 6. Answering paragraph 6 of the prayer for relief on the fourth cause of action,
2 defendants deny each and every allegation set forth therein.

3 **VI. ON THE FOURTH CAUSE OF ACTION:**

4 1. Answering paragraph 1 of the prayer for relief for general and compensatory
5 damages on the fourth cause of action, defendants deny each and every allegation set forth
6 therein.

7 80. Wherefore, Defendants pray for judgment as set forth below.

8 **AFFIRMATIVE DEFENSES**

9 81. AS A FIRST, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
10 COMPLAINT ON FILE HEREIN, answering defendants allege that said complaint, and each
11 cause of action thereof, fails to state facts sufficient to constitute a cause of action against
12 defendants.

13 82. AS A SECOND, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
14 COMPLAINT ON FILE HEREIN, answering defendants allege that said complaint, and each
15 cause of action thereof, fails to state facts sufficient to support a finding of statutory damages
16 under California law.

17 83. AS A THIRD, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
18 COMPLAINT ON FILE HEREIN, answering defendants allege that plaintiffs failed subsequent
19 to the occurrence described in the complaint properly to mitigate their damages and thereby are
20 precluded from recovering those damages which could have reasonably been avoided by the
21 exercise of due care on the part of plaintiffs.

22 84. AS A FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
23 COMPLAINT ON FILE HEREIN, answering defendants allege that plaintiffs were themselves
24 careless, negligent and at fault for the matters alleged in the complaint; that said carelessness,
25 negligence or fault on plaintiffs' own part proximately contributed to the happening of the
26 incident and to the injuries, loss and damage complained of, if any there were; that should
27 plaintiffs recover damages, defendant is entitled to have the amount thereof abated, reduced or
28 eliminated to the extent that plaintiffs caused or contributed to their injuries, if any.

1 85. AS A FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
2 COMPLAINT ON FILE HEREIN, answering defendants allege that plaintiffs acted with full
3 knowledge of all the facts and circumstances surrounding their alleged injuries and damages and
4 assumed the risk of the matters causing their alleged injuries and damages, and that said matters
5 of which plaintiffs assumed the risk proximately contributed to the happening of the incident at
6 bar and proximately caused their injuries and damages, if any.

7 86. AS A SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
8 COMPLAINT ON FILE HEREIN, answering defendants allege that named and/or unnamed
9 third parties were careless, negligent or at fault for the matters alleged in the complaint; that said
10 carelessness, negligence or fault of said named and/or unnamed third parties proximately
11 contributed to the happening of the incident and to the injuries, loss and damage complained of
12 by plaintiffs, if any there were; that should plaintiffs recover damages, then defendants are
13 entitled to have the amount thereof abated, reduced or eliminated to the extent that said named
14 and/or unnamed third parties caused or contributed to plaintiffs' injuries, if any.

15 87. AS A SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
16 COMPLAINT ON FILE HEREIN, answering defendants allege that said complaint is barred by
17 the doctrine of laches.

18 88. AS AN EIGHTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
19 COMPLAINT ON FILE HEREIN, answering defendants allege that said complaint is barred by
20 the doctrine of unclean hands.

21 89. AS A NINTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
22 COMPLAINT ON FILE HEREIN, answering defendants allege that to permit recovery in
23 respect of the matters herein alleged would violate the provisions of California Constitution, Art.
24 I, §§ 1, 7, 9, 15 and 16.

25 90. AS A TENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
26 COMPLAINT ON FILE HEREIN, answering defendants allege that to permit recovery in
27 respect of the matters herein alleged would violate the provisions of United States Constitution,
28 Amendments V, VII, VIII and XIV.

1 91. AS AN ELEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
 2 COMPLAINT ON FILE HEREIN, answering defendants allege that no removal of barriers or
 3 alternative methods of modification are or were “readily achievable” as defined in Title III of the
 4 Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq., including but not limited to
 5 §12818) and 28 C.F.R. Part 36.104.

6 92. AS A TWELFTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
 7 COMPLAINT ON FILE HEREIN, answering defendants allege that they have not intentionally
 8 engaged in conduct designed to discriminate against individuals with disabilities such as
 9 plaintiffs, by deliberately seeking to preclude such individuals from access to the goods and
 10 services that defendants provide to non-disabled individuals.

11 93. AS A THIRTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
 12 COMPLAINT ON FILE HEREIN, answering defendants allege that plaintiffs’ claims are barred
 13 by the applicable statutes of limitation, including, but not limited to, California Code of Civil
 14 Procedure Section 340(3).

15 94. AS A FOURTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
 16 COMPLAINT ON FILE HEREIN, answering defendants allege that this answering defendant
 17 cannot be held liable for the injuries and damages of plaintiffs, if any there were or are, as this
 18 answering defendant’s alleged conduct was not the proximate cause of the injuries and damages
 19 of plaintiffs, if any.

20 95. AS A FIFTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
 21 COMPLAINT ON FILE HEREIN, answering defendants allege that said complaint is barred by
 22 the doctrines of waiver and estoppel.

23 96. AS A SIXTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
 24 COMPLAINT ON FILE HEREIN, answering defendants allege that plaintiffs failed prior to
 25 commencement of this action to exhaust all necessary administrative remedies and therefore
 26 plaintiffs are precluded from maintaining this action.

27 97. AS A SEVENTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
 28 COMPLAINT ON FILE HEREIN, answering defendants allege that plaintiffs have no standing

1 to maintain this action.

2 98. AS AN EIGHTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
3 COMPLAINT ON FILE HEREIN, answering defendants allege that no removal of barriers or
4 alternative methods of modification are or were required pursuant to 42 U.S.C. section 12101, et.
5 seq., the Unruh Civil Rights Act (Civil Code section 51 et. seq.), and other applicable Federal
6 and State Codes.

7 99. AS AN NINETEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE
8 COMPLAINT ON FILE HEREIN, answering defendants allege that there has been no
9 remodeling, alteration, or modification of the subject premises sufficient to trigger potentially
10 applicable access requirements under state and federal law as alleged in plaintiffs' complaint.

11 100. Defendants do not waive, but hereby reserve, their right to assert additional
12 defenses based on information gathered during the course of additional investigation and/or
13 discovery.

14 WHEREFORE, this answering defendant prays for judgment as follows:

15 1. That plaintiffs take nothing by virtue of their complaint on file herein and that this
16 action be dismissed;

17 2. For costs of suit herein incurred;

18 3. For reasonable attorney's fees incurred;

19 4. That plaintiffs' requested injunction be denied; and

20 5. For such other and further relief as the Court may deem just and proper.

21
22 Dated: August 22, 2008

LIVINGSTON LAW FIRM

23

/s/ Jason G. Gong

24

By

25 Renée Welze Livingston
26 Jason G. Gong
27 Attorneys for Defendants
28 FIVE HAPPINESS RESTAURANT, INC.,
WILLIAM P. YANG and MEI-MEI KOO
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